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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,740	04/16/2004	Yuji Kurosawa	1232-4530US1	8496
27123	7590	11/27/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			ELAHEE, MD S	
			ART UNIT	PAPER NUMBER
			2614	
DATE MAILED: 11/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,740

Applicant(s)

KUROSAWA, YUJI

Examiner

Md S. Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,7-10 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5,7-10 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/15/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed on 09/14/2006. Claims 5,7-10,19 are pending.

Response to Arguments

2. Applicant's arguments filed on 09/14/2006 Remarks have been fully considered but they are not persuasive.

Regarding claims 5,19, the Applicant argues on page 6, "none of Kozuka and Abe, either taken alone or in combination, teaches registering the number of communication channels in sending and receiving communications, independently, as specifically recited in claims 5 and 19 as amended". Examiner respectfully disagrees with this argument. The applicant didn't claim the citation "registering the number of communication channels in sending and receiving communications, independently". Thus the rejection of the claims in view of Kozuka and Abe remain.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 5,9,19 are rejected under 35 U.S.C. 102(e) as being anticipated by **Kozuka** et al. (U.S. 5,740,162).

Regarding claims 5,9,19, **Kozuka** teaches a communication apparatus (Figure 1) capable of using a plurality of communication channels comprising:

a DTE 10 [i.e., setting unit] configured to set a communication scheme in which a user determines both whether or not to require communication utilizing the plurality of communication channels of a communication partner in a sending communication and whether or not to grant a request for communication utilizing the plurality of communication channels from a communication partner in a receiving communication independently (fig.1; col.4, lines 28-45); and

a controller (item 23, fig.1) [i.e., control unit] configured to the number of communication channels in the sending communication and the receiving communication separately in accordance with the communication scheme set by said setting unit (col.1, lines 5-18, col.2, lines 42-45, col.4, lines 28-45, col.5, lines 1-6).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 5,7-10,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Abe** (U.S. 5,555,294) in view of **Kozuka** et al. (U.S. 5,740,162).

Regarding claims 5,9,19, **Abe** teaches a communication apparatus (Figure 2) capable of using a plurality of communication channels comprising:

a setting unit (Figure 4) configured to set a communication scheme in which a user determines both whether or not to require communication utilizing the plurality of communication channels of a communication partner in a sending communication and in a receiving communication independently (Figure 4, label S44);

However, **Abe** fails to teach a setting unit enables a user to determine whether or not to grant a request for communication utilizing the plurality of communication channels. **Kozuka** teaches a DTE 10 [i.e., setting unit] enables a user to determine whether or not to grant a request for communication utilizing the plurality of communication channels (fig.1; col.4, lines 28-45). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Abe** to incorporate a setting unit enables a user to determine whether or not to

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grant a request for communication utilizing the plurality of communication channels as taught by **Kozuka**. The motivation for the modification is to do so in order to enable a user to make sure whether he has available channel to perform a particular communication.

a control unit configured to the number of communication channels in the sending communication and the receiving communication separately in accordance with the communication scheme set by said setting unit enabling the user to control the bulk communication in the sending communication and the receiving communication independently (Col.5, lines 40-44).

Regarding claims 7-8, **Abe** teaches the apparatus according to Claim 5, wherein said communication unit can communicate with a plurality of communication partners, and said setting unit can set the number of channels used when a communication with another communication partner is to be started while communicating using the communication channels, the number of which is controlled by said control unit (Figures 5 and 6 and Col. 6, lines 33-35).

Regarding claim 10, **Abe** teaches the apparatus according to claim 5, wherein said communication unit can communicate using a plurality of schemes, and said setting unit can set whether or not a communication via the plurality of communication channels is granted in each of the plurality of communication schemes (Col. 6, lines 33-38).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Darcie et al. (U.S. 6,195,362) teach Resource pooling system and method in communication systems.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ME

ALAM ELAHEE
PATENT EXAMINER

November 18, 2006


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